

Introduced _____

Public Hearing _____

Council Action _____

Executive Action _____

Effective Date _____

County Council Of Howard County, Maryland

2009 Legislative Session

Legislative Day No. 15

Bill No. 60 -2009

Introduced by: The Chairperson at the request of the County Executive
Co-Sponsored by Calvin Ball, Mary Kay Sigaty, Jennifer Terrasa, and Courtney Watson

AN ACT amending the Howard County Cable Television Systems Franchise Act to clarify certain maintenance requirements; to allow for the use of temporary lines under certain conditions and for a certain period of time; to require certain notice of temporary lines; to prohibit certain temporary lines; to provide certain civil penalties; to allow for certain waivers of certain time requirements; providing for the application of this Act; and generally related to the Howard County Cable Television Systems Franchise Act.

Introduced and read first time _____, 2009. Ordered posted and hearing scheduled.

By order _____
Stephen Le Gendre, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2009.

By order _____
Stephen Le Gendre, Administrator

This Bill was read the third time on _____, 2009 and Passed ____, Passed with amendments ____, Failed ____.

By order _____
Stephen Le Gendre, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ____ day of _____, 2009 at ____ a.m./p.m.

By order _____
Stephen Le Gendre, Administrator

Approved/Vetoed by the County Executive _____, 2009

Ken Ulman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

1 *Section 1. Be It Enacted by the County Council of Howard County, Maryland, that*
2 *Section 14.416 “Use of rights-of-way” of Subtitle 4 “Howard County Cable Television*
3 *Franchise Act” of Title 14 “Licenses, Permits and Inspections” of the Howard County*
4 *Code is amended to read as follows:*

5
6 **Title 14. Licenses, Permits and Inspections.**

7 **Subtitle 4. Howard County Cable Television Systems Franchise Act.**

8
9 **Section 14.416. Use of rights-of-way AND CONSTRUCTION AND MAINTENANCE OF**
10 **SYSTEM.**

11 (a) A franchisee shall utilize, with the owner's permission, existing poles, conduits or
12 such other facilities whenever possible. Copies of agreements for use of poles, conduits
13 or other facilities shall be filed with the Cable Administrator as required by the franchise
14 agreement or upon request of the Cable Administrator.

15 (b) All transmission lines, equipment and structures shall be [[installed and located]]
16 INSTALLED, LOCATED, AND MAINTAINED to cause minimum interference with the rights
17 and reasonable convenience of property owners. MAINTENANCE SHALL INCLUDE
18 ENSURING THAT CABINETS ARE PROPERLY SECURED AND BOLTS ARE PROPERLY TIGHTENED.
19 The County may from time-to-time issue such reasonable rules and regulations
20 concerning the installation and maintenance of the cable system installed in the public
21 rights-of-way as may be consistent with this subtitle and the franchise agreement.

22 (c) Suitable safety devices and practices as required by local, County, State and Federal
23 laws, ordinances, regulations and permits shall be used during construction, maintenance
24 and repair of a cable system.

25 (d) A franchisee shall remove, replace or modify at its own expense the installation of
26 any of its facilities within any public right-of-way when required to do so by the County
27 to allow it to change, maintain, repair or improve a public thoroughfare.

28 (e) SUBJECT TO SUBSECTION (F) OF THIS SECTION, A FRANCHISEE SHALL LOCATE CABLES
29 AS FOLLOWS:

- 1 (1) On streets and roads where electrical or telephone utility wiring is located
2 underground, either at the time of initial construction or subsequently, the
3 cable shall also be located underground at the franchisee's expense.
- 4 (2) Between a street or road and a subscriber's residence, the cable shall be
5 located underground at the franchisee's expense if electrical and telephone
6 utility wiring are located underground.
- 7 (3) Between a street or road and a subscriber's residence, if electric or
8 telephone utility wiring is aerial, a franchisee may install aerial cable
9 except where a property owner or resident requests underground
10 installation and agrees to bear the difference in cost by which underground
11 installation exceeds the cost of aerial installation.
- 12 (F) A FRANCHISEE MAY NOT USE TEMPORARY LINES UNLESS IT IS NECESSARY TO INITIALLY
13 DELIVER SERVICE OR TO CONTINUE TO PROVIDE SERVICE, AND UNLESS THE FOLLOWING
14 CRITERIA ARE MET:
- 15 (1) UNLESS AN EXTENSION IS GRANTED PURSUANT TO SUBSECTION (G) OF THIS
16 SECTION, TEMPORARY LINES SHALL BE BURIED OR PERMANENTLY PLACED
17 AERIALLY ON EXISTING POLES IN A RIGHT-OF-WAY WITHIN 15 DAYS OF
18 INSTALLATION OF THE TEMPORARY LINE;
- 19 (2) WHEN A TEMPORARY LINE IS INSTALLED, THE FRANCHISEE SHALL LEAVE A
20 WRITTEN NOTICE WITH THE HOME OR BUSINESS OWNER OF THE PROPERTY
21 ON WHICH THE TEMPORARY LINE IS INSTALLED, INDICATING THE NEED FOR
22 THE TEMPORARY LINE AND CLEARLY NOTING THE DATE OF INSTALLATION
23 OF THE TEMPORARY LINE; AND
- 24 (3) A FRANCHISEE MAY NOT, UNDER ANY CIRCUMSTANCES, LOCATE
25 TEMPORARY LINES OFF THE GROUND, INCLUDING, BUT NOT LIMITED TO
26 TEMPORARY LINES STRUNG THROUGH TREES, ON TOP OF EQUIPMENT OR
27 SHRUBBERY, ACROSS DOORS, AND OVER STRUCTURES.
- 28 (G) IF A FRANCHISEE REQUIRES MORE THAN 15 DAYS TO PERMANENTLY LOCATE CABLES
29 UNDERGROUND OR THROUGH PERMANENT AERIAL MEANS, NOT LESS THAN 5 DAYS BEFORE
30 THE EXPIRATION OF THE 15-DAY PERIOD, THE FRANCHISEE SHALL:

1 (1) NOTIFY IN WRITING THE IMPACTED HOME OR BUSINESS OWNER OF THE NEED
2 FOR AN EXTENSION; AND
3 (2) REQUEST AN EXTENSION, WHICH SHALL INCLUDE A JUSTIFICATION, FROM
4 THE LOCAL FRANCHISING AUTHORITY WHICH MAY:
5 (I) GRANT AN EXTENSION OF UP TO 15 DAYS; OR
6 (II) IF EXTREME WEATHER CONDITIONS PREVENT THE FRANCHISEE FROM
7 PERMANENTLY LOCATING CABLES WITHIN THE 15-DAY PERIOD,
8 GRANT AN EXTENSION REASONABLY NECESSARY TO PERMANENTLY
9 LOCATE CABLES.

10 ~~[(f)]~~ (H) A franchisee shall obtain any required permits before causing any damage or
11 disturbance to public thoroughfares or private property as a result of its construction or
12 operations and shall restore as nearly as possible to their former condition in accord with
13 applicable construction industry standards such private property and public
14 thoroughfares, the latter in a manner approved by the County. If such restoration is not
15 satisfactorily performed within a reasonable time, the County, or the property owner in
16 the case of private property, may, after prior notice to the franchisee, cause the repairs to
17 be made at the expense of the franchisee.

18 ~~[(g)]~~ (I) A franchisee may trim trees within public rights-of-way at its own expense as
19 necessary to protect its wires and facilities, subject to any direction that may be provided
20 by the County. Trees on private property may be trimmed with the consent of the
21 property owner.

22 ~~[(h)]~~ (J) At the request of any person holding a valid building moving permit and upon
23 sufficient notice, the franchisee shall temporarily raise, lower or cut its wires as necessary
24 to facilitate such move upon not less than 72 hours' advance notice. The direct expense of
25 such temporary changes, including standby time, shall be paid by the permit holder, and
26 the franchisee may require payment in advance.

27 (K) *ENFORCEMENT.* WHEN THE LOCAL FRANCHISING AUTHORITY DETERMINES THAT A
28 VIOLATION OF THIS SECTION EXISTS OR HAS OCCURRED, THE LOCAL FRANCHISING
29 AUTHORITY MAY ENFORCE THE PROVISIONS OF THIS SECTION WITH CIVIL PENALTIES
30 PURSUANT TO TITLE 24 OF THIS CODE AND MAY ISSUE A CITATION WITHOUT THE PRIOR
31 ISSUANCE OF A NOTICE OF VIOLATION, AS FOLLOWS:

- 1 (1) EXCEPT FOR A VIOLATION OF SUBSECTION (F)(3) OF THIS SECTION, A
2 VIOLATION OF THIS SECTION SHALL BE A CLASS C OFFENSE;
3 (2) A VIOLATION OF SUBSECTION (F)(3) OF THIS SECTION SHALL BE A CLASS A
4 OFFENSE; AND
5 (3) EACH DAY THAT A VIOLATION CONTINUES IS A SEPARATE OFFENSE.

6

7 ***Section 2. And Be It Further Enacted*** by the County Council of Howard County,
8 *Maryland, that this Act shall apply on and after April 1, 2010.*

9

10 ***Section 3. And Be It Further Enacted*** by the County Council of Howard County,
11 *Maryland, that this Act shall become effective 61 days after its enactment.*